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| 09/742,354      | 12/22/2000  | Hans Sachse          |                     | 8217             |

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EXAMINER

GRAY, PHILLIP A

ART UNIT PAPER NUMBER

3767

DATE MAILED: 04/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/742,354

Applicant(s)

SACHSE, HANS

Examiner

Phillip Gray

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 14-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

Claims 14 through 17 are pending and are examined in this action. Claims 1-13 are cancelled.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14, 15, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Andersen (U.S. Patent Number 5,057,091).

Andersen discloses an enteral feeding tube with a flexible bolus and feeding bolus. Andersen discloses a process for delivering fluid to the intestines with a probe (figures 1-4, and 6) comprising a probe tube (10,16,18) with an outlet tip area opening (at 14, 18, 22), guide stylet (20) with a curved tip area, further the probe tube and guide stylet each have a flexibility such that the absence of an external force, the shape of the guide stylet is substantially imparted on the tip area of the probe tube when inserted (see paragraph at column 3 line 37 to column 4 line 27). Andersen discloses a process with the steps of inserting the probe tube into the stomach by way of the patient's esophagus (see figure 4), inserting the guide stylet into the probe tube thereby causing the shape of the guide stylet to be substantially imparted on the tip area of the probe tube, inserting the tip of the probe tube into the patient's small intestines by way of the patient's pylorus and passing the fluid through the lumen and the opening of the probe

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tube (see paragraph at column 3 line 37 to column 4 line 27). Andersen discloses the step of spraying X-ray contrast medium into the probe tube prior to inserting the tip of the probe into the small intestines (see paragraphs beginning at column 2 line 17). Further Andersen discloses a probe tube (figures 1-3) comprising an outer tube (16) and an inner stiffening tube (20), which does not extend into the tip area (18) of the probe tube.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Andersen as applied to claim 14 above, and further in view of Cocanower (U.S. Patent Number 5,334,167). Andersen discloses the claimed invention except for inserting a second straight straight stylet into the probe tube prior to inserting the probe tube into the stomach. Cocanower teaches that it is known to inserting a second straight straight stylet (20,40,46) into the probe tube prior to inserting the probe tube into the stomach (as set forth in paragraphs beginning at column 4 and line 8 to column 5 line 27) to provide a guided gastric intubation of an enteral feeding tube. It would have been obvious to one having ordinary skill in the art at the time the invention was made to

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modify the probe system as taught by Andersen with inserting a second straight straight stylet into the probe tube prior to inserting the probe tube into the stomach as taught by Cocanower, since such a modification would provide the probe system with inserting a second straight straight stylet into the probe tube prior to inserting the probe tube into the stomach for providing a guided gastric intubation of a enteral feeding tube.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Gray whose telephone number is (571) 272-7180. The examiner can normally be reached on Monday through Friday, 8:30 a.m. to 4:30 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on (571) 272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
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**MICHAEL J. HAYES**  
**PRIMARY EXAMINER**